

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 1:010. Protests.

5 RELATES TO: KRS 49.220, 49.250, 131.010, 131.030, 131.081, 131.110, and 131.180

6 STATUTORY AUTHORITY: KRS 131.130

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the  
8 Kentucky Department of Revenue to promulgate administrative regulations for the administration  
9 and enforcement of all tax laws of this state. This administrative regulation provides guidance  
10 regarding a taxpayer's protest rights and outlines procedures to facilitate the filing, processing, and  
11 disposition of a protest.

12 Section 1. Definition. "Notice" means a letter, memorandum, or other document from the  
13 department that:

14 (1) Notifies the taxpayer that tax has been assessed and is due, or a request for refund has  
15 been partially denied or denied in full; and

16 (2) Explains the taxpayer's right to protest the assessment, refund denial, or refund  
17 reduction, and the time period for filing a protest.

18 Section 2. Protest - Assessments. (1) Taxpayers will be notified of additional tax  
19 assessments by mail. Payment including interest from the original due date, in the absence of  
20 protest, shall be made within sixty (60)~~forty-five (45)~~ days from the date of the notice informing  
21 the taxpayer that tax is owed.

1 (2) A written protest may be filed by the taxpayer, or other persons representing the  
2 taxpayer, against additional assessments. The department may require the taxpayer to furnish a  
3 "Declaration of Representative," Form 20A100 if a representative is serving on behalf of the  
4 taxpayer. The time period for submitting a supporting statement may be extended as provided in  
5 KRS 131.110(1).

6 (3) A taxpayer or taxpayer representative may submit a written protest and supporting  
7 statements to the department by one (1) of the following methods:

8 (a) Hand delivery to the department at 501 High Street, Frankfort, Kentucky 40601, or a  
9 department Taxpayer Service Center location as listed on the department's Web site;

10 (b) By the United States postal service or express mail service to the address listed in the  
11 notice; or

12 (c) Electronically to an email address, if provided, listed in the assessment or notice.

13 (4) When determining if the protest was timely filed, the department shall record the  
14 submission as:

15 (a) The date stamped as received by the department, if hand delivered;

16 (b) The postmark date from the United States post office, if the postal service is used, but  
17 excluding the date from a postage meter;

18 (c) The delivery confirmation date when received by the department, if an express mail  
19 service is used; or

20 (d) The electronic date and time received, if electronically delivered. If the protest is  
21 submitted to the department electronically, the taxpayer shall also mail a copy of the protest and  
22 supporting statements to the department at the address listed in the notice.

23 (5) The department shall acknowledge receipt of the taxpayer's protest in writing within

1 ninety (90) calendar days from the date received by the department.

2 (6) Scheduling options for a conference shall be communicated to the taxpayer by the  
3 department within forty-five (45) days of the taxpayer's written request for a conference.

4 Section 3. Protest - Refund Denials. (1) The department shall send the taxpayer a notice by  
5 mail of any denial or partial denial of any refund applied for, including a refund claimed upon any  
6 return.

7 (2) The department shall include with each notice of the denial:

8 (a) References to the statutes and administrative regulations that are the basis for the denial;  
9 and

10 (b) The date by which the taxpayer may protest the denial.

11 (3) If the taxpayer disagrees with the disallowance of any refund, the taxpayer may file a  
12 written protest and supporting statements with the department by the methods set forth in Section  
13 2 of this administrative regulation.

14 (4) If the taxpayer or taxpayer representative has submitted all supporting statements and  
15 documentation requested by the department, but has not received a determination regarding the  
16 refund request from the department within 180 calendar days from the date the request was  
17 submitted, the taxpayer may file a protest on the claim as if the refund has been denied by the  
18 department.

19 Section 4. Protest – Transfer (1) Unless the assessment results from an audit performed by  
20 the Office of Field Operations, the department shall attempt to resolve the protest within the taxing  
21 area from which the assessment was issued.

22 (2) If the protest cannot be resolved by the taxing area, the taxing area shall transfer the  
23 protest to the Division of Protest Resolution.

1 (3) A taxpayer may request in writing that a protest be transferred to the Division of Protest  
2 Resolution by the methods outlined in Section 2 of this administrative regulation for consideration  
3 by the department.

4 (4) The taxing area shall complete the transfer within forty-five (45) days of receipt of the  
5 taxpayer's written request to transfer the protest to the Division of Protest Resolution.

6 (5) The Division of Protest Resolution shall acknowledge receipt of the protest in writing  
7 to the taxpayer within forty-five (45) days of the transfer. The acknowledgement shall contain:

8 (a) The name and contact information of the department employee assigned to the  
9 taxpayer's protest; and

10 (b) The name and contact information of the employee's direct supervisor.

11 Section 5. Final Ruling. If the department cannot resolve the protest after transfer to the  
12 Division of Protest Resolution, the department shall issue a final ruling to the taxpayer.

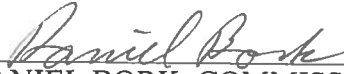
13 Section 6. Failure by the department to meet any of the deadlines imposed by this  
14 administrative regulation:

15 (1) May justify a waiver of penalties; and

16 (2) Shall not be interpreted to allow a reduction in any tax, interest, or fees assessed by the  
17 department.

103 KAR 1:010

APPROVED:

  
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DANIEL BORK, COMMISSIONER  
Department of Revenue  
Finance and Administration Cabinet

  
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DATE APPROVED BY AGENCY

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on July 25, 2019 at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), [Lisa.Swiger@ky.gov](mailto:Lisa.Swiger@ky.gov)(email).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 103 KAR 1:010

Contact Person: Lisa Swiger  
Phone Number: (502)564-9526  
Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 103 KAR 1:010 to conform to changes made in HB 354 of the 2019GA which changed the amount of time a taxpayer has to protest a Notice of Tax Due from the Department of Revenue under KRS 131.110 from 45 days to 60 days.

(b) The necessity of this administrative regulation: KRS 13A requires that all regulations containing outdated or incorrect information be deemed deficient each December and potentially voided. The amendments made within this administrative regulation are necessary to be compliant with KRS 13A and to provide the most current and up to date information regarding the time period to file a protest with the department for those who may seek guidance from 103 KAR 1:010.

(c) How this administrative regulation conforms to the content of the authorizing statutes: See (1)(a).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The amendment to this administrative regulation will insure that the most up to date and correct information is provided to taxpayers of the Commonwealth.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: See (1)(a).

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any taxpayer wishing to file a protest of a tax bill received from the department would potentially be impacted by the change made to this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The only actions required to comply are to file a timely protest within 60 days of the due date on the Notice of Tax Due from the department rather than within 45 days.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs associated with these changes.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will have 15 additional days to meet the deadline of time to file a protest than they had under the previous provisions of KRS 131.110 and this administrative regulation.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There are no additional costs associated with this amendment. Any applicable

cost will be absorbed by the current department budget.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Currently budgeted department funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Tiering is not applied. The updating of this administrative regulation will impact any taxpayer utilizing the guidance within equally.



## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 103 KAR 1:010

Contact Person: Lisa Swiger  
Phone Number: (502)564-9526  
Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Finance and Administration Cabinet, Department of Revenue will be impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A, 131.110 and 131.130(1).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on expenditures and revenues for government agencies because of amending this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No additional revenue will be generated by this amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None. Any programming charges associated with changing the timeframe to file a protest printed on a Notice of Tax Due issued by the department will be covered by a current maintenance agreement.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): 0.00

Expenditures (+/-): 0.00

Other Explanation: